

**04-1544    MARSHALL V. MARSHALL**

DECISION BELOW:                      392 F.3d 1119 (9<sup>th</sup> Cir. 2004)

LOWER COURT CASE NUMBER: 02-56002, 02-56067

QUESTIONS PRESENTED

1.     What is the scope of the probate exception to federal jurisdiction?
2.     Did Congress intend the probate exception to apply where a federal court is not asked to probate a will, administer an estate, or otherwise assume control of property in the custody of a state probate court?
3.     Did Congress intend the probate exception to apply to cases arising under the Constitution, laws, or treaties of the United States (28 U.S.C. § 1331), including the Bankruptcy Code (28 U.S.C. § 1334), or is it limited to cases in which jurisdiction is based on diversity of citizenship?
4.     Did Congress intend the probate exception to apply to cases arising out of trusts, or is it limited to cases involving wills?

Cert. Granted 9/27/05